

SUMMARY REPORT OF INVESTIGATION**I. EXECUTIVE SUMMARY**

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|----------------------------|--|
| Date of Incident: | October 30, 2017 |
| Time of Incident: | 11:52 a.m. |
| Location of Incident: | XXX North Lorel Ave. Chicago, IL 60644 |
| Date of COPA Notification: | October 31, 2017 |
| Time of COPA Notification: | 12:16 p.m. |

Complainant Subject 1 alleged that on October 30, 2017, near XXX N. Lorel Avenue, Officers A and B falsely arrested him for soliciting unlawful business. Subject 1 denied the claim. He alleges that he was arrested almost immediately upon his return from picking up a loaner vehicle with his father.

II. INVOLVED PARTIES

| | |
|----------------------|---|
| Involved Officer #1: | Officer A Star #XXXX / Employee ID #XXXXXX; Date of Appointment: XXX, 2008 Police Officer / Unit: XXX DOB: XXX, 1983 Male/Hispanic |
| Involved Officer #2: | Officer B Star #XXXXX, Employee ID #XXXXX Date of Appointment: XXX, 1993 Police Officer / Unit: XXX DOB: XXX, 1968 Male/Hispanic |
| Subject #1: | Subject 1 DOB: XXX, 1992 Male/Black |

III. ALLEGATIONS

| Officer | Allegation | Finding |
|-----------|---|---------------|
| Officer A | 1. Falsely arrested Subject 1 for soliciting unlawful business in violation of Rules 2 and 6. | Not Sustained |

| | | |
|-----------|---|---------------|
| Officer B | 1. Falsely arrested Subject 1 for soliciting unlawful business in violation of Rules 2 and 6. | Not Sustained |
|-----------|---|---------------|

IV. APPLICABLE RULES AND LAWS

Rules and Regulations of the Chicago Police Department

1. **Rule 2:** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
 2. **Rule 6:** Disobedience of an order or directive, whether written or oral.
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Federal Laws

1. United States Constitution – Fourth Amendment

V. INVESTIGATION¹

a. Interviews

On November 13, 2017, **Complainant, Subject 1** provided a statement to the Civilian Office of Police Accountability (“COPA”).² He reported that, on October 30, 2017, at XXX N. Lorel Avenue, Officers A and B falsely arrested him for soliciting unlawful business. Subject 1 stated that, on that date, he and his father, Civilian 1 left their residence at XXX N. Lorel Avenue at approximately 9:30 am to pick up a loaner vehicle from a car dealer.³ After returning to his residence and standing for about fifteen minutes, Subject 1 went inside for a few moments. Upon returning outside at approximately 11:15 am, Subject 1 sat on the porch at XXX N. Lorel. Subject 1 explained that he knows the neighbor well and that he regularly sat on her porch because his home does not have one.⁴

While on the porch, Subject 1 observed a man standing on the sidewalk on the other side of the gate waiting for someone. Subject 1 did not speak with this man. Shortly thereafter, a police vehicle with two officers approached. Upon exiting their vehicle, the officers detained Subject 1 and ultimately arrested him. The officers later informed him that his arrest was related to a narcotics investigation.

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Att. #27

³ Att. #12, Pg. 1 XXX Loaner Vehicle Form, noting a car checkout time of 10:05 a.m.

⁴ The neighbor’s name was not provided in Subject 1’s interview.

In a statement given to COPA on November 13, 2017, **Witness, Civilian 1**,⁵ Subject 1's father, stated that on the date of the incident he and his son left their residence at approximately 9:30 a.m. to pick up a loaner vehicle from a car dealership.⁶ Civilian 1 stated that once he dropped off Subject 1, he returned to his residence at approximately 11:00 a.m., and Subject 1 returned shortly thereafter. He stated that at approximately 11:25 a.m., his son went outside to sit on the porch of their next-door neighbor. After a short time, his wife, Civilian 2, who was heading out the door, noticed that the police had his son in custody.⁷ At that time, Civilian 1 went outside and approached the officers to inquire about his son's detention. When he approached the police vehicle, the officers told him that Subject 1 was arrested as part of a "drug sting." He informed the officers that he and his son had just returned from picking up a rental vehicle and that Subject 1 had never been involved in any illegal activities. He asserted that one of the co-arrestees with Subject 1 lived on the block and he was also not known to be involved in drug sales.

Civilian 1 stated that his son has been actively employed for some time and provided check stubs and his employer's contact information.⁸ Civilian 1 also stated that he is active in his community and is aware of who the neighborhood drug dealers are. He pointed out that he has alerted CPD about illegal activity on his block on several occasions. Civilian 1 asserted that his family is comprised of respectable and hard-working people who are not involved in illegal activities. He insisted that Subject 1 has never engaged in illegal activities and does not have a criminal history.⁹

In a statement given to COPA on February 23, 2018, **Accused Officer, Officer A**¹⁰ reported that on October 30, 2017, he was assigned to the XXX Unit in the XXX District. He explained that, on the day of incident, he and his partner, Officer B, were patrolling in their unmarked vehicle as part of a five-man enforcement team assigned to patrol areas in the XXX District known for narcotic sales. He and his partner were conducting a mobile surveillance when they noticed three individuals standing near Lorel Avenue and XXX Street on the sidewalk talking to one another. The individuals would later be identified as Subject 1, Civilian 3, and Civilian 4. Officer A stated that the three men drew his attention and that of his partner because they were standing on the sidewalk in front of a residence in a high narcotics area and it did not seem like they were going or coming from any particular area.¹¹ This behavior prompted the officers to switch from a mobile to a stationary surveillance. After going around the block and passing the three men, they parked their vehicle approximately 150 feet from the corner of XXX near Lorel, facing eastbound on XXX without obstruction.

Officer A described his observations during their surveillance, offering a detailed account of two hand-to-hand narcotic transactions conducted by Civilian 4. He recalled that both buyers arrived on foot and described the walking pattern of one of the buyers after his narcotics sell.¹² They occasionally lost sight of Civilian 4 when he broke away from the group to retreat to a nearby

⁵ Att. #26

⁶ Att. #12.

⁷ See Att. #7. The Original Case Incident Report shows the arrest occurred at 11:40 a.m.

⁸ Att. #12, Pgs. 2-4

⁹ COPA notes here that a Criminal History inquiry of Subject 1 proved to be clear.

¹⁰ Att. #37

¹¹ See audio recorded statement of Officer A (Att. 37) at 21:05

¹² See Att.# 37 at 33:35

backyard.¹³ After observing the second transaction, the officers resumed their patrol. At that point, they left XXX, turning northbound onto Lorel, relocating to the rear alley of Lorel Avenue. While transitioning, they radioed the enforcement officers to detain Subject 1 and Civilian 3 because, while riding past, they heard Subject 1 and Civilian 3 yell “Rocks,”¹⁴ three to five times.¹⁵

Officer A stated that the basis for Subject 1’s arrest for soliciting business on a public way was because they heard him shouting “Rocks” to vehicular traffic. He reported that, during their entire surveillance, Subject 1 was standing on the sidewalk.¹⁶ He added that Subject 1 was accompanied by Civilian 3 and Civilian 4 as they stood between XXX and XXX N. Lorel Avenue. Officer A concluded that Subject 1 knew the other two men because they were standing in close proximity, talking to each other. He suggested that, when they drove down Lorel Avenue the first time, the group looked at their vehicle as they passed. However, Officer A stated that the first time they drove down the block he did not hear anyone yell “Rocks.”¹⁷

Due to their stationary position, Officer A was unable to hear any conversations between Subject 1 and his co-offenders who stood near him. Officer A described observing a steady flow of pedestrian and vehicular traffic while observing the location. Officer A observed Subject 1 looking at vehicles as they passed him. Although some traffic stopped, Officer A did not hear Subject 1 shout “Rocks,” nor did he observe him engage in any narcotics sales.¹⁸ However, Officer A stated that, when he and his partner drove north on Lorel Avenue to the east alley, he heard Subject 1 yelling “Rocks” several times toward pedestrian and vehicular traffic.¹⁹

Once Officer A and his partner approached the alley, they observed Civilian 4 walking away from a nearby BBQ grill and heading towards the alley with his fist clinched.²⁰ A search revealed that Civilian 4 was in possession of narcotics. Narcotics were also recovered from a grill in the backyard of the residence Civilian 4 retreated to during their surveillance. Once Civilian 4 was taken into custody, Officer A returned to the front of Lorel Avenue to identify Subject 1 and Civilian 3. While on scene, he learned that Subject 1 was a resident of the block.²¹ Consequently, all three were arrested and no contraband was found on either Subject 1 or Civilian 3.

In a statement given to COPA on February 23, 2018, **Accused Officer, Officer B**²² reported that on October 30, 2017, he was partnered with Officer A in the same narcotics enforcement team. He explained that, on the day of incident, he and Officer A, were patrolling in their covert vehicle. Officer B stated that, while conducting a mobile surveillance on XXX Street, he observed three individuals standing on the sidewalk on Lorel Avenue. One of those individuals was later identified as Civilian 4. At that time, he observed Civilian 4 speaking with two unknown individuals, neither of whom were Subject 1 or Civilian 3.

¹³ *Id.* at 16:40

¹⁴ “Rocks” is a street term used for the sale of crack cocaine.

¹⁵ Att. #37 at 40:55

¹⁶ *Id.* at 19:29.

¹⁷ *Id.* at 20:44.

¹⁸ *Id.* at 18:00.

¹⁹ *Id.* at 5:00.

²⁰ *Id.* at 28:25.

²¹ *Id.* at 24:08.

²² Att. #36

While driving down XXX Street, Officer B saw people appear to warn Civilian 4 of police presence. Officer B reiterated that he only observed Civilian 4 when they patrolled the block the first time and that Civilian 4 was engaged in conversation with three to four individuals outside. However, upon police presence, the group immediately dispersed giving the officers a reasonable belief that Civilian 4 was involved in criminal activity.²³ This prompted the officers to transition from mobile surveillance to stationary narcotics surveillance of Lorel Avenue.

Officer B and his partner positioned their vehicle on XXX Street, approximately 80-90 feet from Lorel Avenue.²⁴ As he faced east on XXX Street, Officer B observed Civilian 4 with two different individuals.²⁵ That is the first time Officer B saw Subject 1 and Civilian 3 standing and talking to one another on Lorel Avenue, but he could not hear what they were saying. However, Officer B stated that they were not engaged in the narcotics transactions.²⁶

While the officers conducted their stationary surveillance, Civilian 4 engaged in two hand-to-hand narcotics transactions. Officer B described the scene as having low vehicular traffic and medium foot traffic. Officer B stated that they lost visual of the recipients after the transactions because the officers' efforts were focused on Civilian 4.²⁷ After observing the second transaction, they switched back to mobile surveillance. They left XXX Street heading north on Lorel Avenue to the east alley of the block. As they drove northbound on Lorel Avenue, the only persons observed on the street were Civilian 3, Subject 1, and the buyer. At that time, Officer B heard Subject 1 and Civilian 3 yell "Rocks" to a vehicle behind their police vehicle.²⁸

After relocating to the alley, Officer B observed Civilian 4 reach into a black grill to obtain a plastic bag and proceed to the front of the block toward the buyer. However, Civilian 4 immediately turned around and headed back toward the alley. Subsequently, he was taken into custody. Officers recovered narcotics on his person and inside the grill located in the backyard. The enforcement unit ultimately detained and arrested Subject 1 and Civilian 3 after Officer A identified them.

Officer B stated that the first time he saw Subject 1 was once their vehicle was parked on XXX Street. Subject 1 and Civilian 3 were standing on the street speaking to each other from time to time. Officer B also recalled seeing Subject 1 and Civilian 3 relocate to a porch from time to time.²⁹ However, he also stated that he did not observe Subject 1 personally engaged in any narcotic sales nor possessing any contraband.³⁰

b. Documentary Evidence

In the CPD Arrest Report (RD#XXX) of Subject 1, Officers A and B reported observing

²³ *Id.* at 16:52

²⁴ *Id.* at 22:22-22:42.

²⁵ *Id.* at 17:48.

²⁶ *Id.* at 23:20.

²⁷ *Id.* at 34:55.

²⁸ *Id.* at 28:20-29:02.

²⁹ *Id.* at 53:20.

³⁰ *Id.* at 23:20.

him standing on a public way yelling, “Rocks,” at motorists and foot traffic. The Report also stated that Subject 1 warned other subjects of police presence when he saw the officers. Consequently, the officers arrested him for soliciting unlawful business.³¹

Subject 1 was arrested with co-offenders, Civilian 3 and Civilian 4. According to the record, the details of Civilian 3’s and Subject 1’s arrests are similar in that both were arrested for soliciting unlawful business.³² Civilian 4, on the other hand, was arrested two doors away at XXX N. Lorel and charged with 1) Possession of a controlled substance; and 2) Cannabis.³³

The **Original Case Incident Report (RD#XXX)** details the narcotic surveillance of Civilian 4 at XXX/XXX N. Lorel, Chicago, IL and the basis for the arrests of Subject 1 and Civilian 3 (*i.e.* “standing on the public way yelling Rocks at motorists and passerbys.” (sic)).³⁴ It is similar to the narratives presented in the arrest report of all three arrestees.

VI. ANALYSIS

Based on a review of the evidence, which consists of interviews and police reports, Subject 1’s allegation that he was falsely arrested can be neither proven nor disproven. Subject 1 stated that he was on a neighbor’s porch or on the street and was inexplicably arrested. His father, in his interview, acknowledged that he was indoors during the time leading up to his son’s arrest. Thus, Subject 1’s father cannot substantiate his son’s contention that he was not involved in the transactions.

However, both Officers A and B describe hearing Subject 1 and Civilian 3 shouting “Rocks” during their surveillance of narcotics transactions on the street. The Original Case Incident Report documents the officers’ observations as stated in their interviews, which included hearing Subject 1 calling out “Rocks” to motorists and passersby. Subject 1’s Arrest Report contained the additional observation that he alerted other subjects of police presence after he noticed the officers. Based on these observations, the officers concluded that Subject 1 was involved in the transactions and arrested him for unlawful solicitation of business.

Due to the nature of the undercover narcotics surveillance operation, there is no audio, video, or other physical evidence available that would corroborate the accounts provided by Subject 1 or the officers.

Essentially, these allegations turn on whether Subject 1 was yelling or saying, “Rocks” while outdoors in furtherance of narcotics sales. Given the lack of evidence to corroborate either party’s account of Subject 1’s arrest, COPA finds that his allegations against Officers A and B are NOT SUSTAINED.

³¹ Att. #5

³² Att. #19

³³ Att. #17

³⁴ Att. #7

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

| Allegation | Finding |
|---|----------------|
| Officer A | |
| 1. Falsely arrested Subject 1 for soliciting unlawful business in violation of Rules 2 and 6. | Not Sustained |
| Officer B | |
| 1. Falsely arrested Subject 1 for soliciting unlawful business in violation of Rules 2 and 6. | Not Sustained |

Approved:

Acting Deputy Chief Administrator A
Acting Deputy Chief Administrator

Date

Appendix A

Assigned Investigative Staff

| | |
|---|-------------------------------------|
| Squad#: | XX |
| Investigator: | Investigator A |
| Supervising Investigator: | Supervising Investigator A |
| Acting Deputy Chief Administrator: | Acting Deputy Chief Administrator A |